

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MARY DOE,

Plaintiff,

v.

BEST BUY,

Defendant.

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C.A. No.:

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COMPLAINT

Plaintiff, Mary Doe, hereby files this complaint to recover for an invasion of her privacy resulting from a member of Best Buy's Geek Squad inappropriately viewing personal photos on a computer provided to the company for service. The Geek Squad simply acted as the "Peek Squad" in connection with viewing information which they had no right to access.

PARTIES

1. Mary Doe is an individual who resides in Bristol, Rhode Island.
2. Best Buy is a Delaware corporation which maintains a principal place of business at 7601 Penn Avenue, S., Richfield, Minnesota. Best Buy maintains places of business in Massachusetts.

JURISDICTION AND VENUE

3. This is a diversity action. The parties reside in different states and the amount in controversy exceeds \$75,000.
4. Venue is appropriate because the wrongful acts occurred almost entirely in Mansfield, Massachusetts.

DISCUSSION

5. On January 17, 2011, Mary Doe's boyfriend provided his computer to the Best Buy store located in Mansfield, Massachusetts for service. Best Buy indicated that it would need to remove a rogue virus from the computer system.

6. Best Buy then took possession of the computer and provided Ms. Doe's with a service order form. A true and accurate copy of the service order form dated January 17, 2001 is attached as Exhibit A.

7. The Service Order form provides that the Best Buy/Geek Squad could "perform the services requested on [the computer] and [had] access to [the computer] data and information [only] for such purpose." Ex. A (emphasis added).

8. Accordingly, Best Buy could access computer data only if needed to install the anti-virus software.

9. On January 19, 2011, Best Buy forwarded Ms. Doe's boyfriend an e-mail thanking him for installing the new anti-virus software. A true and accurate copy of the e-mail is attached as Exhibit B.

10. This e-mail indicates that Best Buy had completed its service as to remedying the rogue virus removal. The email had been forwarded at 9:19 a.m.

11. Ms. Doe's boyfriend accessed his computer on January 20, 2011. After doing so, he viewed the recent contact file which appears on his computer.

12. This file indicated that an employee of Best Buy had accessed photos existing on his computer. The time information contained in this file also indicated that the access occurred after the installation of the anti-virus software on January 19, 2011. This time

information indicated that the pictures had been accessed from 9:24 a.m. through 10:46 a.m.

13. No reason existed for any individual to access this information. Access had not been required to install the anti-virus software. In fact, the Best Buy employee accessed the information just minutes after he had remedied the rogue virus issue.

14. The pictures accessed indicated those of Mary Doe in positions demonstrating personal situations.

15. Evidence of Best Buy's access to such pictures is demonstrated by data obtained from Mr. Doe's computer.

16. The data set forth directly below indicates that the files had been accessed via double-clicking while viewing them in a larger folder.

17. Double-clicking caused the photo to be enlarged on the computer screen.

18. Double-clicking also created a "recent files shortcut" in the start menu. That shortcut allows only the twelve most recent images to be listed.

19. Those images include the pictures set forth directly below. Remaining data as to these images also includes the number designated to the picture in Ms. Doe's boyfriend's computer, the nature of the image, the file in which the photo or video had been located, and the date the picture or video had been accessed.

20. The relevant data is as follows:

Name: 026.Ink
Target Type: JPEG Image
Target Location: 210-05-23
Target: C:\Users\Owner\Pictures\2010-05-23\026.JPG
Type: Shortcut
Folder path: C:\Users\Owner\AppData\Roaming\Micro...
Date Created: Wednesday 1/19/2011 9:30:41 AM
Description: Personal

Name: 100_2062.Ink
Target Type: JPEG Image
Target Location: Celebration for kids 2010
Target: C:\Users\Owner\Pictures\Celebration for kids 2010\100_2062.JPG
Type: Shortcut
Folder path: C:\Users\Owner\AppData\Roaming\Micro...
Date Created: Wednesday 1/19/2011 9:28:05 AM
Description: Personal

Name: 100_2166.Ink
Target Type: JPEG Image
Target Location: Celebration for kids 2010
Target: C:\Users\Owner\Pictures\Celebration for kids 2010\100_2166.JPG
Type: Shortcut
Folder path: C:\Users\Owner\AppData\Roaming\Micro...
Date Created: Wednesday 1/19/2011 9:30:41 AM
Description: Personal

Name: 0830090806.Ink
Target Type: JPEG Image
Target Location: phone pics
Target: C:\Users\Owner\Desktop\phone pics\0830090806.jpg
Type: Shortcut
Folder path: C:\Users\Owner\AppData\Roaming\Micro...
Size: 625 bytes
Date Created: Wednesday 1/19/2011 9:24:10 AM
Description: Personal

Name: IMG950160.Ink
Target Type: JPEG Image
Target Location: phone pics
Target: C:\Users\Owner\Desktop\phone pics\IMG950160.jpg
Type: Shortcut
Folder path: C:\Users\Owner\AppData\Roaming\Micro...
Date Created: Wednesday 1/19/2011 9:25:01 AM
Description: Personal

Name: IMG950161.Ink
Target Type: JPEG Image
Target Location: phone pics
Target: C:\Users\Owner\Desktop\phone pics\IMG950161.jpg
Type: Shortcut
Folder path: C:\Users\Owner\AppData\Roaming\Micro...
Date Created: Wednesday 1/19/2011 9:24:56 AM
Description: Personal

Name: IMG950203.Ink
Target Type: JPEG Image
Target Location: phone pics
Target: C:\Users\Owner\Desktop\phone pics\ IMG950203.jpg
Type: Shortcut
Folder path: C:\Users\Owner\AppData\Roaming\Micro...
Date Created: Wednesday 1/19/2011 9:25:11 AM
Description: Personal

Name: IMG950371.Ink
Target Type: JPEG Image
Target Location: phone pics
Target: C:\Users\Owner\Desktop\phone pics\ IMG950371.jpg
Type: Shortcut
Folder path: C:\Users\Owner\AppData\Roaming\Micro...
Date Created: Wednesday 1/19/2011 10:24:25 AM
Description: Personal

Name: IMG950376.Ink
Target Type: JPEG Image
Target Location: phone pics
Target: C:\Users\Owner\Desktop\phone pics\ IMG950376.jpg
Type: Shortcut
Folder path: C:\Users\Owner\AppData\Roaming\Micro...
Date Created: Wednesday 1/19/2011 9:25:54 AM
Description: Personal

Name: TapIMG956807.Ink
Target Type: JPEG Image
Target Location: phone pics
Target: C:\Users\Owner\Desktop\phone pics\ TapIMG956807.jpg
Type: Shortcut
Folder path: C:\Users\Owner\AppData\Roaming\Micro...
Date Created: Wednesday 1/19/2011 9:26:37 AM
Description: Personal

21. To view the pictures listed above, two different picture folders were opened:
(1) "phone pics" (located by shortcut on the desktop), and (2) "Celebration for kids 2010"
(which was accessed via the main pictures folder).

22. "Celebration for kids 2010" contains 121 different files (photos and video).

23. All of the photos in the "Celebration for kids 2010" file must have been

viewed in order for the Best Buy employee to reach the files which he double clicked.

22. That conclusion is reached by observing the “recent file shortcut” entries set forth above. Those entries indicate that the Best Buy employee needed to view the following files before he could have reached the files which he double-clicked:

<u>File name</u>	<u>Description</u>
100_2062	Personal.
100_2063	Personal.
100_2074	Fully clothed photo of Mary Doe.
100_2100	Personal.
100_2107	Personal.
100_2111	Personal.
100_2124	Personal.
100_2137	Personal.
100_2138	Personal.
100_2139	Personal.
100_2140	Personal.
100_2144	Personal.
100_2145	Personal.
100_2166	Personal.
100_2186	Personal.

24. The “phone pics” folder contains 447 different files (photos and video).

25. All of these files must have been viewed in order for the Best Buy employee to access the files which he double clicked.

26. As noted above as to the “Celebration for kids 2010” file, that conclusion is reached by observing the “recent file shortcut” entries set forth above.

27. Those entries indicate that the Best Buy employee needed to view the following files as to Mary Doe before he could have reached the files on which he double-clicked:

<u>File name</u>	<u>Description</u>
0213002123	Personal.
0320001910	Personal.
0328001012	Personal.
0830090806	Personal.
IMG950160	Personal.
IMG950161	Personal.
IMG950203	Personal.
IMG950217	Personal.
IMG950371mm	Personal.
IMG950376	Personal.
IMG950378	Personal.
IMG950442	Personal.
IMG950461blk	Personal.
IMG950552	Personal.
IMG950553	Personal.
IMG950639	Personal.
IMG950695	Personal.

IMG950713kfds	Personal.
IMG955249	Personal.
IMG955249bb	Personal.
IMG956807	Personal.
IMG956807bluuuue	Personal.
IMG956807hbnjm	Personal.
IMG956807j	Personal.
IMG956807	Personal.
IMG956807jtm	Personal.
IMG956807krjew	Personal.
IMG956807potirew	Personal.
IMG956807purpl	Personal.
IMG956807rekiu	Personal.
IMG956807T	Personal.
IMG_0159	Personal.
TapIMG956807	Personal.

Best Buy's Confirmation That the Photos Had Been Viewed.

28. In response to Mary Doe's complaint as to the invasion of her privacy interest, Best Buy arranged for one of its employees to fly from Minnesota to Boston, Massachusetts for the purpose of copying the hard drive of the computer owned by Ms. Doe's boyfriend.

29. Best Buy's employee did so at Plaintiff's counsel's office.

30. Best Buy then reviewed the data on the hard drive.

31. Best Buy then acknowledged that the pictures referred to above had been viewed on January 19, 2011.

32. The only conclusion is that a Best Buy employee did so based on the data and time of access. Best Buy possessed the computer at the time the photos had been viewed.

33. Best Buy had no need whatsoever to access these pictures in connection with the installation of the anti-virus software. The viewing occurred after Best Buy had completed its "service" to the computer.

34. The Best Buy representative accessed this material only for his own personal or sexual pleasure. There is no evidence as to access to any other file folders existing on the computer. The employee(s) also appears to be a male based on his review of pictures which concern primarily a female, Ms. Doe.

35. He continued to view the pictures after he learned of the nature of their content. He simply picked the pictures from those existing on the computer.

36. The employee's method for accessing the pictures indicate that he and perhaps other employees also had done so on other computers in the past. He and others most likely continue to do so as to pictures and other personal and financial information of other customers.

37. Mary Doe also is unsure as to whether any of the pictures accessed by Best Buy has been transferred to any other medium such as the internet. She also does not know if the relevant employee(s) will share or has shared the pictures with any other individuals or if he (or they) photographed them for display to others or for posting on the internet.

38. Upon information and belief, the employee(s) also has spoken with others regarding what he saw.

39. Mary Doe has been humiliated and embarrassed by the unauthorized viewing of intensely personal information.

40. Mary Doe shared a personal relationship with her boyfriend. The nature of the relationship and the intimate details which they shared are personal and are not to be revealed to anyone.

41. Best Buy's access to this information is an unreasonable, substantial and serious breach of Ms. Doe's privacy interest.

42. Mary Doe no longer can enter Best Buy because of her feeling of embarrassment.

43. As a professional worker, she also now lives in constant fear that the personal images could appear on the internet or that they have been or will be shared with friends of the Best Buy employee(s) who viewed them or other third parties.

44. She constantly is fearful that she will be recognized by the person or persons who viewed the photos.

45. The disclosure also has caused her to suffer sleepless nights, anxiety, and other emotional and physical distress.

46. Ms. Doe also wishes to move out of the Mansfield area because of fear that she will be identified by others as the person appearing in the pictures.

Count I
(Violation of Privacy Statute, Mass. Gen. Laws Ch. 214, § 1B)

47. Mary Doe repeats the allegations of Paragraphs 1 through 46 as if fully set forth herein.

48. Best Buy's viewing of the information as to Mary Doe constituted a violation of her privacy interest.

49. Such a violation has caused significant harm to her defendants.

50. As a result Mary Doe is entitled to recovery of \$500,000.

Count II
(Violation of Mass. Gen. Laws Ch. 93A)

51. Plaintiff repeats the allegations of Paragraphs 1 through 50 as if fully set forth herein.

52. Best Buy is engaged in trade or commerce.

53. Its viewing of information in the computer of Mary Doe's boyfriend constituted an unfair and deceptive act.

54. As a result, Mary Doe has suffered damages exceeding \$500,000.

55. Mary Doe has completed all conditions precedent to filing his count.

56. Accordingly, Mary Doe is entitled to recovery of treble damages and recovery of attorneys' fees, the total sum of which is \$2 million.

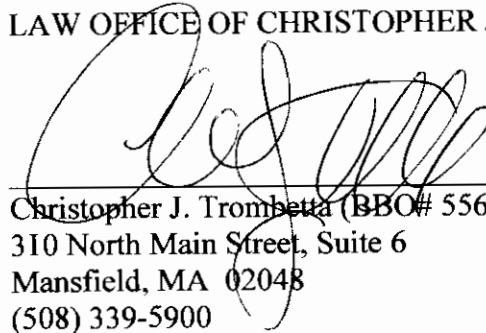
WHEREFORE, Ms. Doe prays that the Court:

1. Enter judgment in favor of Ms. Doe in an amount exceeding \$500,000.
2. Enter judgment in favor of Ms. Doe on Count II in an amount exceeding \$500,000, treble the relevant damage amount, and award her recovery of attorney's fees;
3. Award interest and costs, which include attorney's fees; and
4. Award such other and further relief as the court deems appropriate.

MARY DOE,

By her attorney,

LAW OFFICE OF CHRISTOPHER J. TROMBETTA

A handwritten signature in black ink, appearing to read 'Christopher J. Trombetta', is written over a horizontal line.

Christopher J. Trombetta (BBO# 556923)
310 North Main Street, Suite 6
Mansfield, MA 02048
(508) 339-5900

Dated: July 25, 2011